

(PATENT COOPERATION TREATY)

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:
MICHAEL J. MALLIE
BLAKELY SOKOLOFF TAYOR & ZAFMAN
12400 WILSHIRE BOULEVARD, 7TH FLOOR
LOS ANGELES, CA 90025

PCT

WRITTEN OPINION

(PCT Rule 66)

Date of Mailing
(day/month/year)

06 APR 2004

Applicant's or agent's file reference

42390.P11865PCT

REPLY DUE

within 2 months/days from
the above date of mailing

International application No.

PCT/US02/17166

International filing date (day/month/year)

31 May 2002 (31.05.2002)

Priority date (day/month/year)

15 June 2001 (15.06.2001)

International Patent Classification (IPC) or both national classification and IPC

IPC(7): H04N 7/173 and US Cl.: 725/97

Applicant

INTEL CORPORATION

1. This written opinion is the first (first, etc.) drawn by this International Preliminary Examining Authority.

2. This opinion contains indications relating to the following items:

- I ☒ Basis of the opinion
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Rule 66.2 (a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

3. The applicant is hereby invited to reply to this opinion.

When? See the time limit indicated above. ~~The applicant may, before the expiration of that time limit, request this Authority to grant an extension. See rule 66.2(d).~~

How? By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

Also For an additional opportunity to submit amendments, see Rule 66.4.
For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis.
For an informal communication with the examiner, see Rule 66.6

If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.

4. The final date by which the international preliminary examination report must be established according to Rule 69.2 is: 15 October 2003 (15.10.2003).

Name and mailing address of the IPEA/US

Mail Stop PCT, Attn: IPEA/US
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Facsimile No. (703)305-3230

Authorized officer

Ngoc K. Vu

Telephone No. 703-306-0377

Form PCT/IPEA/408 (cover sheet)(July 1998)

I. Basis of the opinion**1. With regard to the elements of the international application:***

- ☒ the international application as originally filed
- ☒ the description:
pages 1-54, as originally filed
pages NONE, filed with the demand
pages NONE, filed with the letter of _____
- ☒ the claims:
pages 55-71, as originally filed
pages NONE, as amended (together with any statement) under Article 19
pages NONE, filed with the demand
pages NONE, filed with the letter of _____
- ☒ the drawings:
pages 1-21, as originally filed
pages NONE, filed with the demand
pages NONE, filed with the letter of _____
- ☐ the sequence listing part of the description:
pages NONE, as originally filed
pages NONE, filed with the demand
pages NONE, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.
These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the written opinion was drawn on the basis of the sequence listing:

- ☐ contained in the international application in printed form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages NONE
- ☐ the claims, Nos. NONE
- ☐ the drawings, sheets/fig NONE

5. ☐ This opinion has been drawn as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed."

WRITTEN OPINION

International application No.
PCT/US02/17166

V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. STATEMENT

Novelty (N)	Claims <u>6-19, 21-23, 29-34, 38-43 and 47-52</u>	YES
	Claims <u>1-5, 20, 24-28, 35-37, 44-46 and 53-56</u>	NO
Inventive Step (IS)	Claims <u>NONE</u>	YES
	Claims <u>1-56</u>	NO
Industrial Applicability (IA)	Claims <u>1-56</u>	YES
	Claims <u>NONE</u>	NO

2. CITATIONS AND EXPLANATIONS

Claims 1-5, 20, 24-28, 35-37, 44-46 and 53-56 lack novelty under PCT Article 33(2) as being anticipated by Wu (WO 01/15451 A1).

Regarding claims 1-5, 20, 24-28, 35-37, 44-46 and 53-56, Wu discloses a system and method for generating an opportunistic broadcast schedule. The system comprising a processor (102), a communication interface coupled to the processor (126), a storage device coupled to the processor (106). The system is configured to receive request for segments from a user. The requests are ranked based on demand. The ranking allows the limited number of on demand stream to be used in a manner that provides the most popular shows first. The rankings are used to schedule the transmissions of segments over the on demand stream. The scheduling can also take into account the availability of the segment. The schedule generated will account for the time of availability of a segment and ensure that the segment is transmitted rapidly upon its availability if the ranking for the segment is sufficiently high (see page 3, line 20 to page 15, line 19 and figures 2 and 3).

Claims 6-19, 21-23, 29-34, 38-43 and 47-52 lack an inventive step under PCT Article 33(3) as being obvious over Wu in view of Herz et al. (US 6,088,722 A).

Regarding claims 6-19, 21-23, 29-34, 38-43 and 47-52, Wu discloses that each segment requested by the user, a determination is made as to whether the segment is a broadcast segment or an on demand segment. The on demand segments are scheduled on a first-come-first served basis and the computer 122 will return a time and a stream identifier for the segment shortly after the request. Once a user has established his/her profile by identifying desired segments, he/she watches his/her personalized channel at any time (see page 3, line 20 to page 15, line 19 and figures 2 and 3). Wu does not explicitly disclose feedback data comprising relative levels of interest in program content. However, Herz discloses a system and method for scheduling the receipt of desired programs. Feedback paths are provided so that the customer's profiles and the profiles of the programs may be modified to reflect actual usage, and so that the data downloaded to the customer's set top terminal may be minimized (see column 9, line 29 to column 42, line 63). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Wu by including feedback as disclosed by Herz to help the customer receiving video, with minimal effort, the information he/she is most interested in.

Claims 1-56 meet the criteria set out in PCT Article 33(4), and thus have industrial applicability because the subject matter claimed can be made or used in industry.

----- NEW CITATIONS -----

NONE

Supplemental Box

(To be used when the space in any of the preceding boxes is not sufficient)

TIME LIMIT:

The time limit set for response to a Written Opinion may not be extended. 37 CFR 1.484(d). Any response received after the expiration of the time limit set in the Written Opinion will not be considered in preparing the International Preliminary Examination Report.